

are raised, no further search is required.

Claims 10-20 stand finally rejected under 35 U.S.C. §103(a) as being unpatentable over Hirotaka '439, in view of what the Examiner alleges as "Official Notice" as supported by Cree et al., U.S. Patent No. 5,093,901. In support of this rejection, the Examiner asserts that Hirotaka '439 discloses:

a schedule management system comprising a schedule server which stores schedules of participants and schedules of equipments reserved by ones of participants (see abstract, "portable information terminal"); and a plurality of remote client devices operatively connected to said schedule server, which allow client users to input schedules of said participants and request an idle time retrieval from said schedule server (see abstract, "external computer").

However, the Examiner has expressly admitted that Hirotaka '439 does **not** disclose "a degree of significance is provided to said participants respectively so that schedules of said participants are grouped in the order of said degree of significance to thereby retrieve the idle time corresponding to said degree of significance [among said different groups]". Nonetheless, the Examiner then takes "Official Notice" of this feature, and cites Cree '901 as evidence to support the "Official Notice" taken, when challenged by Applicants in the Amendment filed on May 30, 2002.

This rejection is fundamental in error for a number of reasons and, thus, is respectfully traversed for reasons discussed herein below.

First of all, and as previously explained in the Amendment filed on May 30, 2002, "Official Notice" is always improper as a matter of law if the features taken are novel features of Applicants' disclosed invention. In the present situation, the grouping of participants or equipments based on the degree of significance feature of Applicants' claims 10-20 is one of the very novel features disclosed. As a novel feature disclosed, the Examiner **cannot** rely on matters of judicial notice at exact

point at which patentable novelty is argued. Ex parte Cady, 148 U.S.P.Q. 162 (POBA 1965). Determination of obviousness must be based on facts, not on unsupported generalities. In re Warner, 379 F.2d 1011, 154 USPQ 173 (CCPA 1967); In re Freed, 425 F.2d 785, 165 USPQ 570 (CCPA 1970). "It is fundamental that rejections under 35 U.S.C. §103 must be based on evidence comprehended by the language of that section." In re Grasselli and Hardman, 713 F. 2nd 731, 739, 218 USPQ 769, 775 (CA FC 1983).

Moreover, even assuming *arguendo* that "Official Notice" can be taken on the novel features of Applicants' claims 10-20, which Applicants do not believe so, the Examiner has the burden to produce evidence to support the Official Notice taken as required by both the MPEP and CFR, when challenged by the Applicants as the Applicants have done here in the Amendment filed on May 30, 2002.

In the present situation, the Examiner cites Cree '901 as evidence to support the Official Notice taken with respect to Applicants' feature of "grouping of participants or equipments based on the degree of significance" such that "schedules of said participants are grouped in the order of said degree of significance to thereby retrieve the idle time corresponding to said degree of significance [among said different groups]."

This citation is misplaced, however. Cree '901 does **not** disclose any feature regarding Applicants' grouping of participants or equipments based on the degree of significance as alleged by the Examiner. In contradistinction to the Examiner's assertion, Cree '901 simply discloses an information processing system as shown in FIG. 1, for exchanging electronic calendars based on entries and classification among users. Basically, the system utilizes an application to enable an end user

(invitor) who maintains a calendar on the system to schedule a meeting and invite other end users (invitees) who maintain respective calendars on the same system to accept or reject the meeting and, if accepted or rejected, the calendars on the system are automatically updated. The invitees are classified in three types: normal, regular and key as described on column 5, lines 24-35, Cree '901. A normal invitee is an individual who is invited to the regularly scheduled meeting for the first time. A regular invitee is an individual who is invited to the regularly scheduled meeting as is normally done. A key invitee is an individual who is invited to this meeting for the first and only time. However, such classification relates to event, and has absolutely nothing to do with the degree of significance used for searching and Applicants' grouping of participants or equipments based on the degree of significance as alleged by the Examiner.

Secondly, and returning to the more important Hirotaka '439, as a primary reference, Applicants respectfully submit that even if Cree '901 is to be incorporated into Hirotaka '439 in the manner alleged by the Examiner, the Examiner's proposed combination still does not arrive at Applicants' claims 10-20.

As a primary reference, Hirotaka '439 only discloses a portable information terminal provided with a schedule access means 8 which allows a user to inquire a schedule of other members (users), via an external computer; a schedule response means 9 which sends back schedule information according the user's inquiry; and a free time retrieval means 10 which retrieves the common free time of all members (users). If no free time common to all members (users) can be obtained, then Hirotaka '439 requires the user to set a different condition and the free time retrieval means 10 will conduct another search or repeat the search operation in order to

retrieve the free time common to all members set in accordance with selected condition(s).

In other words, Hirotaka '439 discloses the concept of a person-base idle time retrieval, and in addition, the two step search process. The first step is searching the free time common to all members. If no free time common to all members can be found, the second step follows. The second step is searching the free time of members depending on the need degrees of respective members or the threshold of member number, that is, the search is to be performed again with a different condition. As a result, common free (idle) time retrieval is always lumped together, and there is always a heavy load imposed to the system.

In contrast to Hirotaka '439, Applicants' disclosed invention is directed to a different schedule management system as shown in FIG. 1 in which a multistageous idle-time retrieval unit 112 is used to permit a user to retrieve idle time of a schedule of different groups. Schedules of participants and equipments are divided or classified into groups by their order of significance so that idle-time retrieval is executed multistageously on the groups. As a result, idle time can be retrieved so that the significance of the participants and equipments is satisfied in a single search operation. Each scheduled subject (i.e., participant or equipment) may be classified as "essential", "optional" or "selective" depending on the degree of significance as shown in FIG. 5. The idle time retrieval is performed not only on the "essential" members but also the "optional" member, while the retrieval results are handled differently.

The grouping of participants and/or equipments in the order of their such as "essential", "preferential", and "optional" is well defined in each of Applicants'

independent claims 10, 11 and 13. For example, independent claim 10 defines an idle time retrieval in which “a degree of significance is provided to said participants respectively so that schedules of said participants are grouped in the order of said degree of significance to thereby retrieve the idle time corresponding to said degree of significance among said different groups”. Likewise, independent claim 11 defines a multistageous idle time retrieval unit which divides schedules registered for participants and equipments into a plurality of groups and retrieves an idle time common from one group as a retrieval condition for retrieving an idle time common for another group of said plurality of groups of participants.” Similarly, independent claim 13 defines “retrieving means for ... retrieving common idle time among said plurality of groups while a degree of significance of respective groups into account.”

Independent process claims 12 and 14 further define “dividing a subject people of a schedule into a plurality of groups” and “comparing one of said plurality of groups ... repeatedly” in order to output “a retrieval result obtained”. In other words, **retrieval is performed in groups, and the retrieval result is used as the retrieval condition in the next retrieval on the “preferential” group in order to reduce the number of retrievals.**

This way the idle time retrieval is not lumped together but is divided multistageously so that a burden on a host person for retrieving idle time for subjects of participations is lightened. The subjects of participation are grouped in different groups so that idle time is retrieved group by group on the basis of a given retrieval condition. Such a grouping makes the load much lighter.

In order to assist the Examiner to appreciate the more salient features of Applicants’ claims 10-20 and the subject matter of Hirota ‘439, Applicants have

prepared the following example operations involving the groupings of Applicants' claims 10-20 and the non-grouping of Hirotaka '439. In this simple example, there are 8 members (users) assigned to two different groups "A" and "B" consisting of 4 members each. If a search for free time common to all members is requested, the following will occur:

<b>Hirotaka '439</b>	<b>Applicants' claims 10-20</b>
<ul style="list-style-type: none"> <li>• Access all 8 members' time tables (schedules) to search for free time common to all 8 members</li> <li>• If no free time common to all 8 members is found, then condition may be imposed, and another search will be conducted.</li> </ul>	<ul style="list-style-type: none"> <li>• Access the first group consisting of 4 members to search for free time common to 4 members in the first group; and</li> <li>• Access the second group (or other group) to search for common free time using the first group search result. See FIG. 2.</li> </ul>

The grouping makes the parallel processing possible. If the grouping is performed depending on the significant degree, the search result of the most significant member group is stored and may be used to another search involving the different member group. As a result, the groupings of participation can significantly reduce the number of access to the individual schedule in the long run. Therefore, the grouping search works differently from the individual search such as Hirotaka '439.

Again, recognizing the fundamental distinctions between the group-based idle time retrieval of Applicants' disclosed invention and the person-based idle time retrieval of Hirotaka '439 in which Hirotaka '439 fails to disclose the "degree of significance provided to participants or equipments so that schedules of participants are grouped in the order of degree of significance to thereby retrieve the idle time corresponding to the degree of significance", the Examiner has incorrectly and

conveniently taken Official Notice of the very novelty of Applicants' disclosed invention, that is, "the grouping people or equipment based on the degree of significance" as being "old and well-known in the art of scheduling a meeting."

Again, as Applicants have explained above, such "Official Notice" taken by the Examiner is both legally and factually flawed for reasons discussed, and as a result, the rejection of claims 10-20 under 35 U.S.C. §103 in view of Hirota '439 and Cree '901 should be withdrawn.

The Examiner is reminded that, in order to establish a *prima facie* case of obviousness under 35 U.S.C. §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and **not** based on Applicants' disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 2143. In other words, **all the claim limitations must be taught or suggested by the prior art**. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). **"All words in a claim must be considered in judging the patentability of that claim against the prior art."** In re Wilson, 424 F.2d 1382, 1385, 165 USQP 494, 496 (CCPA 1970).

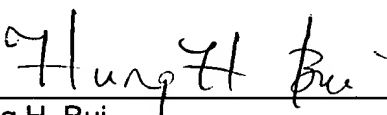
Again, as previously pointed out, the Examiner has ignored to treat the claim invention as a whole, failed to consider all the key limitations of claims 10-20, and

failed to provide any suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skilled in the art, to modify Cree '901 or what the Examiner alleges as "Official Notice" into Hirotaka '439 in order to arrive at Applicants' claims 10-20. Neither Hirotaka '439, nor what the Examiner alleges as "Official Notice" as evidenced in Cree '901. fails to show Applicants' schedule retrieval technique and the use of a "multistageous idle-time retrieving means" in the manner defined in each of Applicants' claims 10-20, Applicants respectfully request that the rejection of claims 10-20 and their respective dependents be withdrawn.

In view of the foregoing additions and remarks, all claims 10-20 are deemed in condition for allowance. Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney at (703) 312-6600.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Antonelli, Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (500.35669CX1).

Respectfully submitted,  
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